

January 6, 2014

Thomas S. Burack, Chairman
New Hampshire Site Evaluation Committee
N.H. Department of Environmental Services
29 Hazen Drive
Concord, NH 03302-0095

Re: Docket 2013-02: Wild Meadows Wind Application of Atlantic Wind, LLC

Dear Chairman Burack:

Pursuant to RSA 162-H:6-a I, state agencies with the authority to issue permits, license or conditions relevant to the above mentioned matter must conduct a preliminary review of the application and identify whether the information contained is complete. Further, RSA 162-H:6-a II requires that you, or your designee, determine whether the filing contains sufficient information to carry out the purposes of the statute. A determination of acceptance must be made within 30 days of the application being filed with the Committee.

There is precedent for the Committee rejecting an application as incomplete. (*See: Application of Laidlaw Berlin BioPower, LLC Docket # 2009-02*)

The objective of this letter is to provide you with a list of deficiencies in the application that we believe render the filing administratively incomplete. The list of deficiencies is as follows:

1. Application is not complaint with *Env-Wq 1503-05 (c)(4)*.

The application omits proof that the governing body of each municipality in which the project is proposed received a copy of the Alteration of Terrain permit application (Appendix 2).

2. Application is not compliant with *Env-Wq 1503-08 (l)*.

Twelve leased land parcels are listed in Appendix 2 but the Applicant has not demonstrated legal access to each parcel¹. Lease documents contained in Appendix 2 appear limited to just seven of the twelve parcels. Six of the seven parcels are owned by a single entity.

3. Application is not compliant with *Env-Wq 1503.07(k)*.

Design plans are only 70% complete. Areas of disturbance were omitted on properties identified as Map/Lot# 417-43, 417-4, 417-8, and 417-13.

¹ Section C.2 of the application states that Atlantic Wind leased land from five private landowners although seven separate participating property owners are named in Appendix 2. In addition, Appendix 37, Section 5 states that a portion of the project site was never surveyed because formal landowner permission was not granted.

4. Application is not compliant with *Env-Wq 1503.08(b)*.

NHNHB has determined that there are known occurrences of rare species, exemplary natural communities, Federal and State threatened and endangered species and habitat in the vicinity of the proposed project², however, the letter provides no assessment of the potential impacts of the project on these resource as required by *Env-Wq 1503.08(b)(2)*. NHB recommends additional surveys be conducted.

5. Application is not compliant with *RSA 482-A:3* or *Env-Wt 506.02 (b)*.

RSA 482-A:3 requires that the applicant deliver five copies of the NHDES Wetlands permit application (Appendix 1) to the town clerk in each town where the project is proposed. The applicant states that only 2 copies of Appendix 1 were delivered to the Town of Danbury and 3 copies to the Town of Alexandria. The NHDES Wetlands permit application (Appendix 1) is not signed by the town clerk of each municipality in which the project is proposed as required under *Env-Wt 506.02(b)*.

6. Application is not compliant with *RSA 482-A:3 I (d)(1)*, *Env-Wt 501(c)* and *Env-Wt 501.02(1)*.

Proof of postage notice is omitted for at least one abutter (Douglas C. & Michele M. Fairbrother). The application omits the name of at least one abutter to the project (Map/Lot# 403-17). Also, two parcels (Map/Lot# 417-4 in Alexandria and Map/Lot# 403-18 in Danbury) are cited as both abutting properties and participating properties.

7. Application is not compliant with *Env-Wt 302.04(16)*.

The applicant has not adequately responded to the question posed under *Env-Wt 302.04(16)*, i.e. the "cumulative impact that would result if all parties owning or abutting a portion of the affected wetland or wetland complex were also permitted alterations to the wetland proportional to the extent of their property rights."

a) **Bog Brook Wetland:** The project substation will be constructed in a low-lying wetland near Bog Brook. On the question of cumulative impact, the applicant merely states that direct impacts to the wetland will have no negative effect due to a prior disturbance³.

b) **Grants Pond:** The operations and maintenance building and related infrastructure will be constructed less than 1000 feet from Grants Pond in an area containing an extensive wetland complex that flows west and eventually into Grants Pond. Thirty-three percent (197,998 sf) of the watershed area surrounding the O&M building will be disturbed (*Appendix 2, Section 2.6.1C*). On the question of cumulative impact, the applicant states that no "wetland impacts

² In Appendix 1, 20 Questions, the applicant's response to question #7 appears to be directly contradicted by the applicant's statements in his Appendix A - Attachment A Supplement included in Appendix 1.

³ The applicant cites a prior mining operation as the source of the disturbance. Upon our information and belief, the mining operation referenced by the applicant was abandoned in the 1940's.

are proposed adjoining Grants Pond in Danbury". This claim ignores the fact that wetlands TW 295-2, TW 300, TW 203, TW 385, TW 386 and others will be directly impacted.

The above list represents obvious deficiencies in the application. There are many other examples including missing photographs of wetlands and streams, incomplete statements and other inconsistencies in the filing that suggest the application was rushed and is not ready to be accepted.

The Wild Meadows Wind application will be the fifth wind energy proposal before the Committee, and the second largest after the Granite Reliable facility (99 MW). The land requirements for these projects are extensive and typically involve construction in rural, non-industrialized areas which host sensitive natural resources. Wind energy applications have proven controversial with time-consuming adjudicative proceedings. Compliance with the rules and statutes governing state agencies with jurisdiction is necessary in order for the Committee to carry out the purposes of RSA 162-H in an orderly manner.

In this case, the applicant has failed to provide any proof that he has a legal right to construct the project on five of the twelve land parcels. The design plans are only 70% complete; four of the alleged leased properties omit information on the limits of disturbance. In one case, the applicant has been unable to secure landowner permission to even walk the property. NHHB has asked for additional field surveys before it can assess the impact on plants, fish and wildlife present and/or migrating through the project area. If the Committee were to accept the application as complete, this would trigger strict time limits imposed by statute that could hinder the full and true disclosure of the facts and raise legitimate questions as to whether sufficient evidence can be made available for the Committee to issue a Certificate. The public will not be served by rushing this process.

Thank you for the opportunity to provide comment. If you have any questions, please do not hesitate to contact Lisa Linowes at 603-838-6588 or by email at lisa@linowes.com.

Respectfully,



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/s/ April Dugan-Frost

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cc: Attorney Michael J. Iacopino